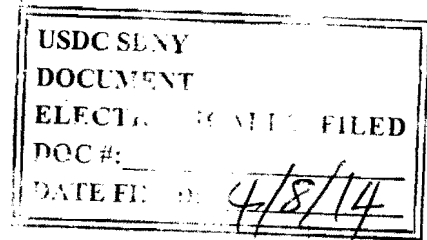


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



----- x  
FOX NEWS NETWORK, LLC,

Plaintiff,

-against-

TVEYES, INC.,

Defendant.  
----- x

**ORDER REGARDING APRIL  
1, 2014 LETTER**  
13 Civ. 5315 (AKH)

ALVIN K. HELLERSTEIN, UNITED STATES DISTRICT JUDGE:


On April 7, 2014, I held a hearing to consider the issues raised in the parties' April 1, 2014 joint letter to the Court regarding the scope of discovery. At the hearing, I set a briefing schedule for summary judgment motions to be filed on the record created by the parties, and ruled that further discovery at this point seemed to be unnecessary.

I ruled also that proofs of experts were not necessary. Upon further reflection following the hearing, I am amending my April 7, 2014 order. The opinion of experts may be useful to address the context of TVEyes, Inc.'s business within the relevant markets. Accordingly, the parties may, if they wish, have experts address "the effect of the use upon the potential market for or value of the copyrighted work." 17 U.S.C. § 107(4). *See Bill Graham Archives v. Dorling Kindersley Ltd.*, 448 F.3d 605, 613 (2d Cir. 2006) ("This analysis requires a balancing of the benefit the public will derive if the use is permitted and the personal gain the copyright owner will receive if the use is denied." (quotation omitted)).

The parties shall, on or before April 16, 2014, advise the Court whether the summary judgment schedule should be revised, and to what extent, to allow for experts' discovery.

SO ORDERED.

Dated: New York, New York  
April 8, 2014

  
ALVIN K. HELLERSTEIN  
United States District Judge